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4 UNITED STATES DISTRICT COURT
5 DISTRICT OF NEVADA

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7 VICTOR TAGLE, SR.,

8 Plaintiff,

9 v.

10 CORRECTIONS CORPORATION
11 AMERICA,

12 Defendant.

Case No. 2:18-cv-00871-RFB-GWF

ORDER

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14 This action is a *pro se* “tort action” filed by a state prisoner. On May 25, 2018, this Court
15 issued an order denying Plaintiff’s application to proceed *in forma pauperis* because Plaintiff had
16 “three strikes” pursuant to 28 U.S.C. § 1915(g). (ECF No. 3). The Court informed Plaintiff that if
17 he did not pay the \$400.00 filing fee in full within thirty days from the date of that order, the Court
18 would dismiss the action without prejudice. (*Id.* at 2). The thirty-day period has now expired and
19 Plaintiff has not paid the full filing fee of \$400.00.

20 Plaintiff filed an “answer” to the Court’s previous order disputing his three strikes status.
21 (ECF No. 4). The Court finds that this “answer” is without merit.

22 District courts have the inherent power to control their dockets and “[i]n the exercise of that
23 power, they may impose sanctions including, where appropriate . . . dismissal” of a case. *Thompson*
24 *v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986). A court may dismiss an
25 action, with prejudice, based on a party’s failure to prosecute an action, failure to obey a court
26 order, or failure to comply with local rules. *See Ghazali v. Moran*, 46 F.3d 52, 53-54 (9th Cir.
27 1995) (dismissal for noncompliance with local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61
28 (9th Cir. 1992) (dismissal for failure to comply with an order requiring amendment of complaint);

1 *Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (dismissal for failure to comply with local
2 rule requiring *pro se* plaintiffs to keep court apprised of address); *Malone v. U.S. Postal Service*,
3 833 F.2d 128, 130 (9th Cir. 1987) (dismissal for failure to comply with court order); *Henderson v.*
4 *Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986) (dismissal for lack of prosecution and failure to
5 comply with local rules).

6 In determining whether to dismiss an action for lack of prosecution, failure to obey a court
7 order, or failure to comply with local rules, the court must consider several factors: (1) the public's
8 interest in expeditious resolution of litigation; (2) the court's need to manage its docket; (3) the risk
9 of prejudice to the defendants; (4) the public policy favoring disposition of cases on their merits;
10 and (5) the availability of less drastic alternatives. *Thompson*, 782 F.2d at 831; *Henderson*, 779
11 F.2d at 1423-24; *Malone*, 833 F.2d at 130; *Ferdik*, 963 F.2d at 1260-61; *Ghazali*, 46 F.3d at 53.

12 In the instant case, the Court finds that the first two factors, the public's interest in
13 expeditiously resolving this litigation and the Court's interest in managing the docket, weigh in
14 favor of dismissal. The third factor, risk of prejudice to Defendant, also weighs in favor of
15 dismissal, since a presumption of injury arises from the occurrence of unreasonable delay in filing
16 a pleading ordered by the court or prosecuting an action. *See Anderson v. Air West*, 542 F.2d 522,
17 524 (9th Cir. 1976). The fourth factor – public policy favoring disposition of cases on their merits
18 – is greatly outweighed by the factors in favor of dismissal discussed herein. Finally, a court's
19 warning to a party that his failure to obey the court's order will result in dismissal satisfies the
20 "consideration of alternatives" requirement. *Ferdik*, 963 F.2d at 1262; *Malone*, 833 F.2d at 132-
21 33; *Henderson*, 779 F.2d at 1424. The Court's order requiring Plaintiff to pay the full filing fee
22 within thirty days expressly stated: "It is further ordered that this action will be dismissed without
23 prejudice unless Plaintiff pays the \$400.00 filing fee in full within thirty (30) days from the date of
24 this order." (ECF No. 3 at 2). Thus, Plaintiff had adequate warning that dismissal would result
25 from his noncompliance with the Court's order to pay the full filing fee within thirty days.

26 IT IS THEREFORE ORDERED that this action is dismissed without prejudice based on
27 Plaintiff's failure to pay the \$400.00 filing fee in compliance with this Court's May 25, 2018,
28 order.

1 IT IS FURTHER ORDERED that the Clerk of Court shall enter judgment accordingly and
2 close this case.

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4 DATED this 2nd day of July 2018.

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7 RICHARD F. BOULWARE, II
8 UNITED STATES DISTRICT JUDGE
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